THE
Dan Smoot Report

Vol. 15, No. 40 (Broadcast 737) October 6, 1969 Dallas, Texas

DAN SMOOT

WHEN THE MOBS ELECT A PRESIDENT....

On September 18, 1969, the House (by a vote of 339-70) passed HJ Res 681, a resolution proposing a constitutional amendment to abolish the electoral college system and to provide for direct, popular election of the President and Vice President.

U. S. Representative John Dowdy (Texas Democrat, who fought hard against HJ Res 681) said the proposed amendment "is a political transformation flying squarely in the face of the most basic precept of the Constitution. . . a swing to an extreme which represents the most radical possible departure from traditional constitutional concepts."

Mr. Dowdy is right.

From their vast knowledge of history, the American Founding Fathers knew that unlimited political power cannot safely be trusted to *anyone* — not to appointed officials of government, not to elected representatives of the people, not to the people themselves. Hence, they devised a system to control political power by dispersing and balancing it so that too much power could not be concentrated in any one place.

The power of large states was balanced against that of small ones. Some power was taken from states and given to the federal government, and state governments were given some control over federal power.

The federal government was divided into three branches, each with a check on the power of the others; but only one-half of one of the three branches was answerable directly to the people.

State legislatures were given power to choose U. S. presidential electors and U. S. Senators. The President and Senators were given power to choose members of the judicial branch of the federal government. Only the House of Representatives, elected by the people, was to be directly answerable to the people. The people's control over the other two-and-one-half branches of the federal govern-

THE DAN SMOOT REPORT is published weekly by The Dan Smoot Report, Inc., Box 9538, Dallas, Texas 75214 (office at 6441 Gaston Ave.). Subscriptions: $18.00 for 2 years; $10.00, 1 year; $6.00, 6 months. Dan Smoot was born in Missouri, reared in Texas. With BA and MA degrees from SMU (1938 and 1940), he joined the Harvard faculty (1941) as a Teaching Fellow, doing graduate work in American civilization. From 1942 to 1951, he was an FBI agent; from 1951 to 1955, a commentator on national radio and television. In 1955, he started his present independent, free-enterprise business: publishing this REPORT and abbreviating it each week for radio and TV broadcasts available for commercial sponsorship by business firms.

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ment was to be indirect, through their state legislatures or through the House of Representatives.

By thus balancing federal power against state power, and dividing federal power into three branches, each acting as a counterweight upon the others, the Constitution created a federal system in which the people, though retaining ultimate political power over all agents and agencies of government, were themselves protected from demagoguery and mob psychology, which are fatal weaknesses of direct popular government.

One of the knottiest problems solved by the American Founding Fathers was that of balancing representation. If small states were given equal representation (in the federal government) with populous states, a small minority could dominate a huge majority. On the other hand, if states were given representation solely on the basis of population, small states would have practically no voice.

Framers of our Constitution devised a magnificent means of balancing the power of big and small states — keeping the large from politically swallowing up the small, while preventing minority populations in small states from dominating majority populations in large ones. All states, regardless of size, have equal representation in the Senate. In the House, their representation is based on population. This same balance was prescribed for electing Presidents. All states have two electoral votes for President to match their representation in the Senate — plus enough electoral votes to match their representation in the House.

The Constitution requires state legislatures to *appoint* electors who elect the President and Vice President.

This electoral college system was a superb means of electing the two highest federal officials. It gave the people *indirect* control (through their state legislatures) of presidential elections, the framers knowing that *direct* control by the people is a practical impossibility.

The perfection of our federal system was seriously impaired when the 17th Amendment (adopted in 1913) provided for direct, popular elections of U. S. Senators — thus removing from *state governments* the power, given them by the Constitution, to influence the federal government. The perfection of our federal system has also been seriously marred by an illegal method of electing Presidents, which began to evolve early in our history.

The first seven Presidents were elected in compliance with constitutional provisions — that is, they were chosen by electors who had been *appointed* by state legislatures, as the Constitution requires.

But political parties became so strong, and partisan feeling so bitter, that political parties, which controlled state legislators, began usurping the legislators' duty to appoint presidential electors. State legislators, subservient to political parties, surrendered an important responsibility which the Constitution assigns to state legislatures.

As the system now works, each political party chooses its own presidential and vice presidential candidates and its own electors.

The Constitution prohibits any "*person holding an office of trust or profit under the United States*" from having any part in the election of a President.

Yet, political nominating conventions which select our Presidents are dominated by federal office holders. Millions getting money from the federal treasury participate in presidential elections, many of whom support the presidential candidate whose election will mean continuation of their *profit under the United States.*

In some states, candidates *and* electors chosen by political parties are listed on ballots. Most states, however, have too many electors to list; so, just the names of presidential and vice presidential candidates are on ballots.

In November, every leap year, voters go to the polls, most thinking they are voting for presidential and vice presidential candidates; but they are not. They cannot. Voters vote only for presi-

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dential electors, whose names are often not even on the ballot. Hence, "presidential election day" is not the day when a President is elected. It is a day when presidential electors are elected. The presidential candidates whose electors get a plurality (highest number) of popular votes cast in a state on "presidential election day" will later get *all* of that state's electoral votes.

A candidate who gets a *minority* of popular votes can now receive a *majority* of electoral votes, because of the winner-take-all practice of giving all of a state's electoral votes to the man who gets a mere plurality of the popular vote. Hence, political parties tend to cater to organized voting blocs in key cities of key states.

Racial violence and rising crime rates — caused, to considerable degree, by political pandering for Negro votes — are among the reasons why industrious, tax-paying citizens are fleeing to suburbs, their places in inner cities being taken by persons dependent on welfare, public housing, rent subsidies, and every other form of assistance except self-assistance. These are the people who vote *en bloc* for the political party they think likely to give them the biggest handouts from the public treasury — for the politicians who most effectively ingratiate themselves on rabble-rousers and agitators in control of the bloc votes.

But the winner-take-all practice was not created or authorized by our Constitution. It was adopted, in violation of the Constitution, by political parties (or by state legislatures controlled by the parties).

Under the Constitution, if 33% of a state's electoral votes are cast for one presidential candidate, 33% for another candidate, and 34% for a third candidate — the votes must be counted the way they were cast. Under the present system, if 33% of a state's popular vote for President goes to one candidate, 33% to another candidate, and 34% to a third candidate — the votes are not counted the way they were cast. All of the votes (100%) are counted for the candidate who got only 34% of them.

An ideal solution would be to return to the method the Constitution specifies. State legislatures should *appoint* presidential electors. If the electors voted for a candidate whom most of the people of the state did not like, the people would have some recourse — against their elected state representatives who appointed the electors. Now, the people have no recourse if all of their states' electoral votes are counted for a presidential candidate whom most of the people do not like — which frequently happens.

It is apparent, however, that we cannot return to the ideal system of electing Presidents. The people now mistakenly believe they have "the privilege of voting for a President," and they could never be persuaded to give it up.

There is, however, an available, constitutional solution which can be achieved by *state* action. We should not look to the national Congress for remedy in this matter.

Each state should amend its election laws (if necessary) to require the *appointment* of *one* slate of presidential electors, by the *state legislature*, as the *Constitution commands*. One elector should be appointed from each congressional district, and required by law to cast the one electoral vote of that district for the presidential candidate who receives a plurality of the popular vote in the *district*. Two at-large electors should be appointed in each state, to correspond with the two U. S. Senators. These two electors should be required by law to cast their two votes for the presidential candidate who receives a plurality of the popular vote in the *state*.

This system would be constitutionally legal (with no amendment to the Constitution necessary). It would satisfy the demand for direct voter participation in presidential elections. It would eliminate the winner-take-all practice, which is the worst feature of the present system; and it would restore the geographical distribution of political power which the Constitution prescribed. In electing a President, each state

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would have strength equal to its strength in electing members of the federal Congress, which is what the Constitution intended.

Our present, illegal method of electing Presidents is a travesty on the elective process. Reform is sorely needed; but no reform at all would be infinitely better than direct, popular election.

The constitutional amendment (already approved by the House and now before the Senate), providing for direct, popular election of the President, would be the death blow to the American constitutional Republic. The consequences would not be perceptible immediately. But, in due course—perhaps too late for remedy—the people would realize that their Republic was gone. In its place would evolve a mobocracy, ruled by ruthless dictators—creatures of idle, big-city mobs, forever growing in number, endlessly and violently demanding more free benefits to be plundered from the ever-dwindling numbers of productive citizens.

Venal politicians—buying political support by promising the people benefits to be paid for out of the federal treasury—started us on the road toward mobocracy in the 1930s. Our rush toward ruin gathers speed relentlessly, as the two major political parties compete for power by promising more and more largess for the idle and indolent—"keeping their promises" by more and more pillaging of taxpayers.

As if we had a death wish for our own freedom, we dash toward the abyss of a socialist-welfare dictatorship. Direct, popular election of Presidents would so accelerate the dash that halting it, and reversing course, might become impossible.

With direct, popular elections, a million adult reliefers in a few large cities—people who never worked or paid direct taxes—could outvote all taxpaying citizens in any one of 40 of our 50 states. Two or three precincts in a big northern city, densely populated with welfare families, could outvote all the taxpaying citizens in Alaska, Delaware, Nevada, Vermont, or Wyoming.

With direct, popular elections, it would become quite impossible for a statesman to win a presidential election over a political scoundrel.

We *must* keep the Senate from passing the resolution (HJ Res 681) proposing a constitutional amendment to provide for direct, popular election of Presidents.

Write both of your U. S. Senators *now;* and then do your utmost for action by your state legislature to reform our method of electing Presidents.

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The average number of copies printed each week during the preceding 12 months: 24,000; of the single issue nearest October 1, 1969: 26,000. Average number of weekly subscription sales during preceding 12 months: 14,000; of the single issue nearest October 1, 1969: 12,496. Average weekly sales by means other than subscription during preceding 12 months: 9,000; of the single issue nearest October 1, 1969: 13,000. Average paid weekly circulation during preceding 12 months: 23,000; of the single issue nearest October 1, 1969: 25,496. There is no free distribution. Average total weekly distribution during preceding 12 months: 23,000; of the single issue nearest October 1, 1969: 25,496. Average number of copies retained weekly for office use during preceding 12 months: 1,000; of the single issue nearest October 1, 1968: 504.

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